

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/B2005/000084

International filing date (day/month/year)
14.01.2005

Priority date (day/month/year)
19.01.2004

International Patent Classification (IPC) or both national classification and IPC
B60K15/04

Applicant
ITW AUTOMOTIVE PRODUCTS GMBH & CO.KG

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office - Gitschiner Str. 103
D-10958 Berlin
Tel. +49 30 25901 - 0
Fax: +49 30 25901 - 840

Authorized Officer

Călămar, G

Telephone No. +49 30 25901-505



Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	1-12
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

- 1 DE10126207 is considered to be the most relevant prior art document. It discloses a filler neck with a closing mechanism which avoids that a fuel tank is filled with petrol instead of diesel fuel. The closing mechanism is provided with a closing flap which is held in the closing position by several locking hooks. The hooks are biased by an annular spring element.

The problem to be solved is that when the fuel pipe for petrol is introduced eccentrically, this means not coaxial with the longitudinal axis of the filler neck, one or two of the locking hooks may be opened, so that a fuelling with petrol instead of diesel is not excluded.

The present application differs from DE10126207 in that instead of the locking hooks and the annular spring element there is provided an actuation ring having a slot.

Therefore, claim 1 is considered to be new (Art.33(2) PCT).

Although it is known to avoid using the wrong fuel as described above, the prior-art does neither disclose nor fairly suggest the solution proposed by the present application, so that claim 1 is also considered to be inventive (Art. 33(3) PCT).

Re Item VIII

Certain observations on the international application

- 2 The application does not meet the requirements of Article 6 PCT, because claims 1-12 are not clear.
- 2.1 It is clear from the description on pages 8 and 9 that the following features are essential to the definition of the invention:

(1) Closing flap (38)

(2) Lateral arm (42) pivotally supported to rotate about an axis which is parallel to the axis of the cup (10)

(3) Slot (56) which is engaged by the actuation portion of the actuation ring

Since independent claim 1 does not contain these features it does not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

2.2 The problem to be solved by the present invention is avoiding the use of wrong fuel (Page 2, Description).

It is unclear how this problem is solved with the features of claim 2, if the essential features "diameter of a diesel-nozzle and diameter of a petrol-nozzle" are missing from this claim.

2.3 Independent claims 1 and 2 are not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (DE10126207) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).

In the present case, the following features are known in combination from DE10126207 and belong in the preamble of such a claim:

Filler neck,

Narrow cross-section smaller than cross-section of diesel-nozzle and larger than cross-section of petrol-nozzle,

Actuation portion,

Closing mechanism associated with the end of the actuation ring facing the tank and designed such that when closed it defines a stop for the petrol-nozzle,

Actuation ring engages the closing mechanism, whereby the closing mechanism is biased from the closed into the opened position when the actuation ring is enlarged

by the diesel-nozzle and the actuation portion is shifted.

- 2.4 According to the requirements of Rule 11.13(m) PCT the same feature shall be denoted by the same reference sign throughout the application. This requirement is not met in view of the use of "16", "60" ; "76", "112" and "114" on pages 10 and 11.
- 2.5 In claims 1-12 a fuel pipe is claimed whereby it is clear from drawings and description that actually not a fuel pipe but a filler neck is to be claimed.
- 2.6 The term "approximately", used in claims 2,3,5 and 8 is vague and unclear and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claims unclear, Article 6 PCT.